

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**ANDRE JUSTE and MOTJUSTE  
TIRADE OF VIM ANDRE JUSTE**

Plaintiffs,

v.

**CIVIL ACTION NO.: 3:15-CV-54  
(GROH)**

**MCDONALD RESTAURANT  
CORPORATION, et al.,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble [ECF 8], filed on June 5, 2015.<sup>1</sup> The R&R recommends that this Court dismiss the complaint without prejudice for lack of subject matter jurisdiction and deny as moot the Plaintiffs’ Application for Leave to Proceed Without Prepayment of Fees [ECF 2].

Under 28 U.S.C. § 636(b)(1), this Court must make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. The Court need not review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

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<sup>1</sup> This matter was referred to Magistrate Judge Trumble pursuant to this Court’s Local Rules.

Objections to the R&R were due within fourteen days of being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff Andre Juste accepted service of the R&R on June 8, 2015.<sup>2</sup> The copy of the R&R sent to Plaintiff Motjuste Tirade of Vim Andre Juste was returned to the Clerk's office as undeliverable. None of the Plaintiffs have filed objections to the R&R. Thus, this Court reviews the R&R for clear error.

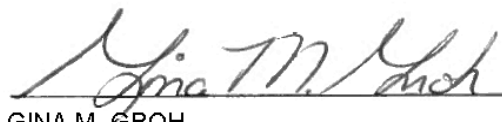
Upon careful review of the R&R, it is the opinion of this Court that the Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, the Court **DISMISSES** the complaint **WITHOUT PREJUDICE** and **DENIES AS MOOT** the Application to Proceed Without Prepayment of Fees.

This matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

The Clerk is **DIRECTED** to enter judgment in this matter.

The Clerk is directed to transmit copies of this Order to all counsel of record and to any *pro se* parties.

**DATED:** June 26, 2015

  
GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Entering the tracking number associated with the R&R on the United States Postal Service's website reveals that the R&R was delivered to Plaintiff Andre Juste on this date.